IN THE HIGH COURT OF DELHI AT NEW DELHI

Crl.M(M) No.3578/2002

Polar Industries Ltd. & Anr. ..... Petitioner
! through: Mr.Vijay K.Gupta, Advocate.

VERSUS

$ M/s Ruchi Strips & Alloys Ltd. & Anr. ..... Respondent
^ through: Mr.G.L.Rawal, Sr.Advocate with
Mr.Kuljeet Rawal, Advocate.

Crl.M(M) No.3580/2002

Polar Industries Ltd. & Anr. ..... Petitioner
! through: Mr.Vijay K.Gupta, Advocate.

VERSUS

$ M/s Ruchi Strips & Alloys Ltd. & Anr. ..... Respondent
^ through: Mr.G.L.Rawal, Sr.Advocate with
Mr.Kuljeet Rawal, Advocate.

% **D**ATE OF DECISION: 20-09-2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: PRADEEP NANDRAJOG, J.

1. M/s.Ruchi Strips & Alloys Ltd., respondent had admittedly entered into a business transaction with Polar Industries Ltd. It is also not in dispute that between 10.1.1996 and 27.1.1996 various invoices were raised totalling Rs.18,22,654/-. As per Polar Industries Ltd. the invoices were

cleared for payment by Polar Industries Ltd. in sum of Rs.18,03,244/-.

2. According to M/s.Ruchi Strips & Alloys Ltd. amount payable is as per invoices raised i.e. Rs.18,22,654/-.

3. On 24.2.1996, 18.3.1996 and 20.3.1996, 3 cheques were admittedly issued by Polar Industries to M/s.Ruchi Strips & Alloys Ltd. in sum of Rs.5,42,100/-, Rs.3,41,629/- and Rs.3,22,661/- towards part payment of the amount payable under the invoices.

4. It is not in dispute that when presented for encashment, all 3 cheques were returned dishonoured by the banker of Polar Industries.

5. 3 complaints were filed under Section 138/141 of the Negotiable Instruments Act 1881. Each pertaining to one cheque issued by Polar Industries.

6. Pertaining to the complaint which related to the cheque in sum of Rs.3,41,629/- being Complaint No.1440/1996 an order came to be passed on 27.1.2000 by the M.M. recording that pursuant to a compromise between the parties 5 cheques issued by Polar Industries in favour of M/s.Ruchi Strips & Alloys Ltd. being encashed, M/s.Ruchi Strips & Alloys Ltd. was agreeable for withdrawal of the case.

7. Thus, Complaint Case No.1440/1996 was disposed of as settled between the parties.

8. Pertaining to the two other complaints relating to the cheque in sum of Rs.5,42,100/- and Rs.3,22,661/-, Polar Industries started asserting that an all embracing settlement has been arrived at between the parties. That to clear liability in sum of Rs.18,03,244/-, being the value of the invoices as admitted to be payable by Polar Industries, M/s.Ruchi Strips & Alloys Ltd. had issued 11 cheques detailed as under:-

Cheque No.	Date	Amount
888491	28.11.1996	2,00,000/-
195687	31.01.1997	1,00,000/-
001100	17.04.1997	1,58,271/-
001098	27.04.1997	3,41,629/-
744979	22.06.1997	2,00,000/-
074834 DD	17.06.1998	2,06,490/-
042371	10.09.1999	1,19,370/-
040372	10.10.1999	1,19,370/-
040373	10.11.1999	1,19,370/-
040374	10.12.1999	1,19,370/-
040375	10.01.2000	1,19,370/-
		18,03,244/-

9. According to the petitioner, M/s.Ruchi Strips & Alloys Ltd. was thus bound to withdraw the complaints pertaining to cheque in sum of Rs.5,42,100/- as also cheque in sum of Rs.3,22,661/-. According to the petitioner since M/s.Ruchi Strips & Alloys Ltd. did not agree to withdraw the said two complaints, only remedy available was to seek quashing of the said 2 complaints for the reason civil dispute pertaining to the cheques being settled, the complaints could not be proceeded ahead.

10. Question which arises for consideration is, whether by receiving the 11 cheques noted in para 8 above, M/s.Ruchi Strips & Alloys Ltd. consented to a settlement of all claims pertaining to

the 3 cheques issued by Polar Industries in sum of Rs.3,41,629/-, Rs.5,42,100/- and Rs.3,22,661/-.

11. Admittedly, there is no written document evidencing the settlement if any between the parties.

12. It is urged by learned counsel for the petitioners that the value of the 11 cheques noted in para 8 above equals to the liability admitted by the petitioner pursuant to the 6 invoices raised on it by M/s.Ruchi Strips & Alloys Ltd. and thus, there exists sufficient evidence where from it can be safely inferred that by receiving the 11 cheques and on encashment of the 11 cheques an all embracing settlement between the parties was not only arrived at but even satisfied.

13. Per contra, learned counsel for M/s.Ruchi Strips & Alloys Ltd. submits that as per the invoices, on delayed payment, M/s.Ruchi Strips & Alloys Ltd. was entitled to interest @24% per annum. Learned counsel submits that out of 11 cheques (detailed in para 8 above) received by M/s.Ruchi Strips & Alloys Ltd., 5 cheques in sum of Rs.1,19,370/- each were received for satisfaction of cheque in sum of Rs.3,41,629/- for the reason interest had accrued in the interregnum.

14. Learned counsel for the respondent further points out that order dated 27.1.2000 passed by the learned Metropolitan Magistrate pertaining to Complaint Case No.1440/1996 relatable to the cheque in sum of Rs.3,41,629/- clearly records that on the

last date 5 cheques were received by M/s.Ruchi Strips & Alloys Ltd. for satisfaction of the claim pertaining to the cheque in sum of Rs.3,41,629/-. Thus, learned counsel for the respondent urges that prima facie the 5 cheques in sum of Rs.1,19,370/- each would relate to satisfaction of the cheque in sum of Rs.3,41,629/-.

15. Learned counsel for the respondent further points out that earlier on, petitioner had filed a petition under Section 482 of the Code of Criminal Procedure wherein it was averred that the respondent had not even disclosed to Polar Industries pendency of 2 other complaints and by suppressing the factum of institution and pendency of the complaints had received payments from Polar Industries which relate to the dishonoured cheques which were subject matter of the 2 other complaints. Counsel points out that in the instant petitions a different stand has been taken. It is pointed out that in the instant petitions what is pleaded is that the settlement between the parties was a comprehensive settlement relating to all 3 complaints.

16. I am not to weigh the evidenciary value of the respective stands taken for the reason this would be a task which would be required to be performed by the learned Trial Judge.

17. Suffice would it be to state that where a disputed question of fact arises between the parties and the said disputed questions of fact requires evidence to be led, it would be impermissible for this Court to quash the complaint exercising its

power under Section 482 of the Code of Civil Procedure.

18. I have noted herein above the rival versions of the parties. The rival versions of the parties cannot be adjudicated without recording further evidence.

19. Whereas Polar Industries relies very heavily on the fact that the value of the 11 cheques (detailed in para 8 above) is Rs.18,03,244/- equivalent to the value of the invoices as passed by it and therefore seeks to urge that this evidences an all comprehensive settlement; M/s.Ruchi Strips & Alloys Ltd. asserts that the invoices were raised in the year 1996. For delayed payments, interest @24% per annum was payable. M/s.Ruchi Strips & Alloys Ltd. further asserts that as recorded in the order dated 27.1.2000, satisfaction of the claim pertaining to the cheque in sum of Rs.3,41,620/- was by means of 5 cheques. M/s.Ruchi Strips & Alloys Ltd. asserts that the 5 cheques were the ones issued in sum of Rs.1,19,370/-

20. I thus find no merits in the petitions.

21. I clarify that nothing stated in the present order would be construed as an expression on the merits of the controversy for the reason I have consciously eschewed to discuss the evidenciary value of the rival versions. I have only highlighted the rival versions of the parties and the fact that the resolution of the same would require evidence to be led.

22. No costs.

September 20, 2007
dk

PRADEEP NANDRAJOG, J.